

84TH CONGRESS
1ST SESSION

H. R. 6114

IN THE HOUSE OF REPRESENTATIVES

MAY 9, 1955

Mr. THOMPSON of New Jersey introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To improve legal procedures in the Executive Branch of the Government through the enactment of an Administrative Code, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Administrative Procedure Act is amended to read
4 as follows:

5 "SHORT TITLE

6 “SECTION 1. Titles I to VII, inclusive, of this Act, di-
7 vided into titles and sections according to the following
8 table of contents, may be cited as the ‘Administrative Code’.

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“TITLE I—DEFINITIONS

1

2 “SEC. 100. As used in this Code, except where the con-
3 text clearly indicates otherwise—

4 “(a) AGENCY.—‘Agency’ means each authority
5 (whether or not within or subject to review by another
6 agency) of the Government of the United States other than
7 Congress, the courts, or the governments of the possessions,
8 Territories, Commonwealths, or the District of Columbia.
9 Except as to the requirements of section 200 of this Code,
10 functions exercised by courts-martial and military commis-
11 sions and by military or naval authority exercised in the
12 field in time of war or in occupied territory shall be ex-
13 cluded from the operation of this Code. Except as to the
14 requirements of sections 200 and 201 of this Code, arbitra-
15 tion and mediation functions shall be excluded from the oper-
16 ation of this Code. No agency or function shall be exempt
17 from this Code, or any provision hereof, except by specific
18 statutory reference to the Administrative Code.

19 “(b) PERSON AND PARTY.—‘Person’ includes individ-

1 uals, partnerships, corporations, associations, or public or
2 private organizations of any character other than agencies.
3 'Party' includes any person or agency named or admitted
4 as a party, or properly seeking and entitled as of right to be
5 admitted as a party, in any court or agency proceeding;
6 but nothing herein shall be construed to prevent an agency
7 from admitting any person or agency as a party to an agency
8 proceeding for limited purposes.

9 “(c) AGENCY RULE AND RULEMAKING.—‘Rule’
10 means the whole or any part of an agency statement of gen-
11 eral or particular applicability and future effect designed to
12 implement or interpret law or policy or to describe the or-
13 ganization, procedure, or practice requirements of any
14 agency and includes the approval or prescription for the fu-
15 ture of rates, wages, corporate or financial structures or
16 reorganizations thereof, prices, facilities, appliances, services,
17 or allowances therefor, or of valuations, costs, or accounting,
18 or practices bearing upon any of the foregoing. ‘Rulemak-
19 ing’ means agency process for the formulation, amendment,
20 or repeal of a rule.

21 “(d) AGENCY ORDER AND ADJUDICATION.—‘Order’
22 means the whole or any part of the final disposition (whether
23 affirmative, negative, injunctive, or declaratory in form)
24 of any agency in any matter other than rulemaking, but
25 including licensing, or any request for agency relief. ‘Ad-

1 judication' means agency process for the formulation of an
2 order.

3 “(e) AGENCY LICENSE AND LICENSING.—‘License’ in-
4 cludes the whole or part of any agency permit, certificate,
5 approval, registration, charter, membership, statutory exemp-
6 tion, or other form of permission. ‘Licensing’ includes
7 agency process respecting the grant, renewal, denial, revoca-
8 tion, suspension, annulment, withdrawal, limitation, amend-
9 ment, or modification of a license, and the prescription or re-
10 quirement of terms, conditions, or standards of conduct
11 thereunder.

12 “(f) AGENCY SANCTION AND RELIEF.—‘Sanction’ in-
13 cludes the whole or part of any agency (1) prohibition, re-
14 quirement, limitation, or other condition affecting the free-
15 dom of any person, (2) withholding of relief, (3) imposi-
16 tion of any form of penalty or fine, (4) destruction, taking,
17 seizure, or withholding of property, (5) assessment of dam-
18 ages, reimbursement, restitution, compensation, costs,
19 charges, or fees, (6) requirement, revocation, or suspension
20 of a license, or the prescription or requirement of terms, con-
21 ditions, or standards of conduct thereunder, or (7) taking
22 of other compulsory or restrictive action. ‘Relief’ includes
23 the whole or part of any agency (1) grant of money, assist-
24 ance, license, authority, exemption, exception, privilege, or
25 remedy, (2) recognition of any claim, immunity, privilege,

1 exemption, or exception, or (3) taking of any other action
2 upon the application or petition of, and beneficial to, any
3 person.

4 “(g) AGENCY PROCEEDING AND ACTION.—‘Proceed-
5 ing’ means any agency process for any rule or rulemaking,
6 order or adjudication, or license or licensing. ‘Action’ in-
7 cludes the whole or part of every agency rule, order, li-
8 cense, sanction, or relief, the denial thereof, or failure to act
9 thereon; or the equivalent thereof in any form.

10 “TITLE II—PROCEDURE

11 “PUBLIC INFORMATION

12 “SEC. 200. Except to the extent that there is involved
13 (1) any function of the United States requiring secrecy in
14 the public interest, or (2) any matter relating solely to the
15 internal management of any agency—

16 “(a) RULES.—Every agency shall separately state and
17 currently publish in the Federal Register and in the daily
18 issues thereof (1) descriptions of its central and field organi-
19 zation, including delegations by the agency of final authority
20 and the established places at which, and methods whereby,
21 the public may secure information or make submittals or
22 requests, (2) statements of the general course and method
23 by which its functions are channeled and determined, includ-
24 ing the nature and requirements of all formal or informal
25 procedures available, (3) all instructions, and a general

1 description of all forms, for all applications, registrations,
2 reports, contracts, examinations, or other required papers or
3 statements used by the agency in the discharge of any of its
4 functions, operations, or activities, as well as a statement as
5 to where such forms or instructions may be obtained, and
6 (4) substantive rules and statements of policy or interpre-
7 tations formulated, adopted, or used by the agency other
8 than rules addressed only to and served upon named persons,
9 as well as all other statements relied upon by the agency
10 as authority for, or invoked or used in the discharge of,
11 any of its functions, operations, or activities. The Director
12 of the Office of Legal Services and Procedure established
13 pursuant to title III of this Code may permit or direct
14 any agency to use a short form or alternative method of
15 public information where (1) notice thereof is published in
16 the Federal Register and in the daily issues thereof, and
17 (2) the Director certifies in writing that the short form or
18 alternative method used is adequate to inform the public.
19 No such description, statement, rule, notice, instruction, or
20 other regulation which is not so published shall be valid or
21 effective against any person or party.

22 “(b) ORDERS AND OPINIONS.—Each agency shall
23 promptly publish or, in accordance with the published rule
24 of the agency stating where and how the same may be

1 obtained or examined, make available to public inspection
2 all orders and opinions of such agency. No order or opinion
3 of any agency shall be valid or effective, nor may it be in-
4 voked by the agency for any purpose, until it has been so
5 published or made available for public inspection and
6 copying.

7 “(c) PUBLIC RECORDS.—Except as otherwise required
8 by statute, all matters of official record shall, in accordance
9 with the published rule of the agency stating where and how
10 the same may be examined, be made available to public in-
11 spection and copying, except information of a personal or
12 private nature the disclosure of which the agency finds is
13 not in the public interest. Such matters of official record
14 shall include, but shall not be limited to, docket records,
15 pleadings, claims, applications, testimony, exhibits, reports,
16 or information submitted to or received by the agency in
17 connection with any actual or proposed agency proceeding.

18 “RULEMAKING

19 “SEC. 201. In order to establish procedures for rule-
20 making by agencies and to afford interested persons an
21 opportunity to participate therein—

22 “(a) NOTICE.—General notice of proposed rulemaking
23 by any agency shall be published in the Federal Register and
24 in the daily issues thereof, unless all persons subject thereto
25 are named and either personally served or otherwise have

1 actual notice thereof in accordance with law, and shall in-
2 clude (1) a statement of the time, place, and nature of the
3 public rulemaking proceedings, which shall not be less than
4 thirty days after such publication, (2) reference to the
5 authority under which the rule is proposed, and (3) either
6 the terms or substance of the proposed rule or a description
7 of the subjects and issues involved.

8 “(b) PROCEDURE.—After notice of the proposed rule-
9 making is given, as required by this section, the agency
10 shall afford all interested persons an opportunity to partici-
11 pate in the rulemaking through the submission to it of
12 written or oral data, views, or arguments, and the agency
13 shall fully consider the same. Simultaneously with the pro-
14 mulgation of the rule, the agency shall issue a concise state-
15 ment of the principal considerations for and against its
16 adoption. Where rules are required under the Constitution
17 or by statute to be made after opportunity for a hearing by
18 an agency, the requirements of sections 205 and 206 of this
19 code shall apply in place of the provisions of this subsection.

20 “(c) EFFECTIVE DATES.—The required publication or
21 service by any agency of any substantive rule, other than
22 one granting or recognizing exemption or relieving restric-
23 tion, shall be made not less than thirty days prior to the
24 effective date thereof, except where the agency finds that
25 due and timely execution of its functions imperatively and

1 unavavoidably requires such rule to become effective within a
2 shorter period and publishes such finding, together with a
3 brief statement of the reasons therefor, with the rule.

4 “(d) EMERGENCY RULES.—Rules may be promulgated
5 without the notice and procedure required by this section,
6 to have effect for not more than one hundred and twenty days
7 without renewal, where the agency finds (1) that immediate
8 adoption of a rule is necessary for the preservation of the
9 public health, safety, or morals, and (2) that observance of
10 the requirements of this section would be contrary to the
11 public interest. The agency’s finding and a brief statement
12 of the reasons therefor shall be incorporated in the rule as
13 filed for publication in the Federal Register and in the daily
14 issues thereof.

15 “(e) PETITIONS.—Every agency shall accord all in-
16 terested persons the right to petition for the issuance, amend-
17 ment, or repeal of a rule. Where the agency does not initiate
18 rulemaking proceedings for such purpose, it shall promptly
19 state its reasons for not doing so, shall transmit the same to
20 the petitioner, and shall make the petition and the action
21 taken by the agency, or its failure to act, matters of record
22 available for public inspection and copying.

1 "ADJUDICATION"

2 "SEC. 202. In order that there may be a full and fair
3 determination of factual issues in every case of agency
4 adjudication—

5 "(a) NOTICE.—Persons entitled to notice of an agency
6 proceeding shall be given timely information of (1) the time,
7 place, and nature thereof, (2) the legal authority and juris-
8 diction under which the proceeding is to be held, and (3) the
9 matters of fact and law asserted, in accordance to the extent
10 practicable with the practice and requirements of pleading
11 in the United States district courts. The persons to whom
12 such notice is given shall give prompt notice of the matters
13 of fact and law controverted by them, and their failure to
14 do so shall constitute a waiver of contest as to such matters.
15 In fixing the times and places for proceedings, due regard
16 shall be had for the convenience and necessity of the parties
17 and their representatives.

18 "(b) PROCEDURE.—The agency shall afford all inter-
19 ested parties an opportunity for the submission and con-
20 sideration of facts, arguments, offers of settlement, or pro-
21 posals for simplification of proceedings or adjustment of
22 controversial issues or requests by consent, whether such

1 proceedings are interlocutory, summary, or otherwise
2 Where an opportunity for an agency hearing is required
3 under the Constitution or by statute, the parties shall be
4 accorded a hearing and decision in conformity with sections
5 205 and 206 of this Code. In all other cases of adjudication,
6 which shall for this purpose include the performance of all
7 proprietary functions such as the use or disposition of public
8 property or the execution of public contracts in which private
9 rights, claims, or privileges are asserted or affected, a deci-
10 sion shall be proposed by a duly designated and responsible
11 officer of the agency and served upon the parties by mail or
12 delivered in person. Every such proposed decision shall be
13 subject to review within the agency by a board or superior
14 officer designated by the agency as its reviewing authority
15 for such purposes. The reviewing authority shall make its
16 determination with respect to the proposed decision only
17 after the receipt and full consideration of the evidence and
18 the views and arguments of all interested parties. The find-
19 ings and conclusions of law of the reviewing authority and
20 all such evidence, views, and arguments shall be matters of
21 record available for public inspection and copying. In cases
22 involving the public health, safety, or morals, in which the
23 agency finds and states on the public record the reasons why
24 time, the nature of the proceeding, or the public interest un-
25 avoidably and imperatively so requires, the agency may take

1 emergency action, and the procedural requirements herein
2 provided for shall be carried out thereafter as promptly as
3 possible.

4 "LICENSING

5 "SEC. 203. (a) IN GENERAL.—In any case in which
6 application is made to an agency for a license required by
7 law, the agency, with due regard to the rights and privileges
8 of all interested parties or adversely affected persons, shall
9 set and conduct the proceedings in accordance with this Code
10 or as otherwise required by law.

11 "(b) TERMS AND CONDITIONS.—Terms, conditions, or
12 requirements limiting any license shall be invalid to the extent
13 that they are found by a court of competent jurisdiction not
14 to be plainly and reasonably in the public interest or not
15 within the purposes, scope, or stated terms of the statute
16 pursuant to which the license is issued or required.

17 "(c) SUSPENSION AND REVOCATION.—No withdrawal,
18 suspension, revocation, or annulment by an agency of any
19 license shall be lawful unless, prior to the institution of agency
20 proceedings therefor, (1) facts or conduct that may warrant
21 such action shall have been called to the attention of the
22 licensee by the agency in writing, (2) the agency, upon
23 reasonable notice, shall have afforded the licensee opportunity
24 to submit written data, views, and arguments with respect
25 to such facts or conduct, and (3) the licensee shall have been

1 given a reasonable opportunity to comply with all lawful
2 requirements; except that where the agency finds that the
3 public health, safety, or morals unavoidably and imperatively
4 requires emergency action, and incorporates that finding
5 in its order, summary suspension of a license may be ordered
6 pending proceedings for revocation, which shall be promptly
7 instituted and determined.

8 “(d) RENEWAL.—In any case in which the licensee
9 has made timely and sufficient application for the renewal
10 of a license or for a new license, with reference to any activity
11 of a continuing nature, the existing license shall not expire
12 until such application shall have been finally determined by
13 the agency, and, in case the application shall have been
14 denied or the terms of the new license limited, opportunity
15 shall be afforded for judicial review.

16 “(e) AMENDMENT OR MODIFICATION.—Any modifi-
17 cation or limitation of an outstanding license shall be subject
18 to all the procedural requirements of law with respect to the
19 revocation of a license.

20 “MISCELLANEOUS PROCEDURAL MATTERS

21 “SEC. 204. (a) INVESTIGATIONS.—No process, require-
22 ment of a report, inspection, or other investigatory act or
23 demand shall be initiated, issued, made, or enforced by any
24 agency in any manner or for any purpose unless it is within
25 the jurisdiction of the agency and is authorized by statute.

1 Every person compelled to testify or to submit data or evi-
2 dence to any agency shall be entitled to the benefit of counsel
3 and to retain, or on payment of lawfully prescribed costs to
4 procure, a copy of the transcript of such testimony, data, or
5 evidence. Any court of competent jurisdiction is authorized
6 to restrain any acts threatened or continuing contrary hereto,
7 or to compel acts required hereby.

8 “(b) SUBPENAS.—Presiding officers are authorized to
9 issue subpoenas for the appearance of witnesses or the produc-
10 tion of relevant books, records, or data in any proceeding
11 required under the Constitution or by statute to be deter-
12 mined after opportunity for an agency hearing. Subpoenas
13 shall be issued upon request without discrimination as be-
14 tween parties, public or private. The agency may, by rule,
15 require a statement or showing of general relevance and
16 reasonable scope of evidence sought. Any person subject
17 to a subpoena may, before compliance therewith and on timely
18 petition, obtain from any court of competent jurisdiction a
19 ruling as to the lawfulness thereof. The court shall quash
20 the subpoena or similar process or demand to the extent that
21 it finds the same to be unreasonable in terms, irrelevant in
22 scope, beyond the probable jurisdiction of the agency over
23 the person or subject matter involved, not competently issued,
24 or otherwise not in accordance with law. In any proceeding

1 for enforcement, any court of competent jurisdiction may
2 issue an order requiring the appearance of witnesses or the
3 production of evidence or data within a reasonable time,
4 under penalty of punishment for contempt in case of con-
5 tumacious failure to comply therewith.

6 “(c) SEPARATION OF FUNCTIONS.—No reviewing
7 authority acting pursuant to section 202 (b) of this Code,
8 and no presiding or deciding officer acting pursuant to sec-
9 tions 205 and 206 hereof, shall (1) consult any party on any
10 issue of fact except upon notice and opportunity for all
11 parties to participate, save to the extent required for the
12 disposition of ex parte matters as authorized by law, (2) be
13 responsible to or subject to the supervision or direction of
14 any officer, employee, or agent engaged in the performance
15 of investigatory or prosecuting functions for the agency, (3)
16 be advised by any other agency officer or employee except
17 as a witness or counsel in public proceedings of which all
18 parties have notice and in which they have full opportunity
19 to participate, or (4) permit any other agency officer or
20 employee to participate in any way in the formulation of
21 findings or decisions, except that agency members, or the
22 reviewing authority acting pursuant to section 202 (b) of
23 this Code, may have the assistance of persons who are mem-
24 bers of an independent review staff. If it is alleged that
25 there is a violation of this subsection in connection with

1 any agency action, the reviewing court shall determine the
2 facts and, if such violation is proved, may hold such agency
3 action unlawful and invalid.

4 “(d) EXPEDITION AND DENIALS.—Every agency shall
5 proceed with reasonable dispatch to conclude any matter
6 presented to it, except that due regard shall be had for the
7 convenience and necessity of the parties or their representa-
8 tives. Prompt notice shall be given of the denial in whole
9 or in part of any written application, petition, or other
10 request of any interested person made in connection with
11 any agency proceeding or action, and such notice shall be
12 accompanied by a simple statement of the grounds therefor.
13 Upon application made to any court of competent juris-
14 diction by a party to any agency proceeding or action, and
15 a showing to the court that there has been undue delay in
16 connection with such proceeding or action, the court may
17 issue a mandatory injunction to the agency involved to
18 proceed to a decision in the matter. In any such case the
19 agency involved may show that the delay was necessary and
20 unavoidable.

21 “(e) INSPECTIONS, TESTS, OR EXAMINATIONS.—In
22 any proceeding in which an agency decision rests solely on
23 inspections, tests, or examinations, no decision by any officer
24 or employee of the agency shall be valid or effective unless,
25 upon appropriate request by the person or party affected,

1 review of such inspections, tests, or examinations shall first
 2 have been afforded by a board or superior officer designated
 3 by the agency as its reviewing authority for such purposes;
 4 except that where the officer or employee finds that the
 5 public health, safety, or morals requires emergency action,
 6 and incorporates that finding in his order, summary action
 7 may be taken pending such review, which shall be promptly
 8 instituted and determined.

9 “(f) DECLARATORY ORDERS.—Every agency shall pro-
 10 vide by rule for the filing and prompt disposition of peti-
 11 tions for a declaratory order to terminate a controversy, or
 12 to remove uncertainty in a controversy as to the applicability
 13 to the petitioner of any statutory provision or of any rule
 14 or order of the agency. Such proceedings shall be subject
 15 to the provisions of this Code, as well as of other applicable
 16 law, and the order disposing of the petition in any such case
 17 shall have the same effect as other agency orders.

18 “HEARINGS

19 “SEC. 205. In every case of adjudication and rulemak-
 20 ing required to be made after opportunity for hearing under
 21 the Constitution or by statute, except with respect to the
 22 selection of persons for, their tenure in, and dismissal from,
 23 the civilian and military service of the United States—

24 “(a) PRESIDING OFFICERS.—There shall preside at the
 25 taking of evidence only (1) the agency, (2) one or more

1 members of the body which comprises the agency, (3) a
2 hearing commissioner appointed pursuant to Title V of this
3 Code, or (4) a board specifically authorized by statute to
4 conduct specified classes of proceedings. The functions of
5 all such presiding officers, as well as officers participating
6 in decisions in conformity with section 206 of this Code,
7 shall be conducted in an impartial manner. Any such officer
8 may at any time withdraw if he deems himself disqualified,
9 and, upon the filing in good faith by a party of a timely
10 and sufficient affidavit of personal bias or disqualification of
11 any such officer, the agency or a hearing commissioner as-
12 signed for that purpose shall promptly determine the matter
13 as a part of the record and decision in the case.

14 “(b) HEARING POWERS.—Presiding officers shall have
15 authority to (1) administer oaths and affirmations, (2)
16 issue subpoenas, (3) rule upon offers of proof and receive
17 evidence, (4) take depositions, or cause depositions to be
18 taken, upon oral examination or written interrogatories for
19 the purpose of discovery or for use as evidence in the pro-
20 ceeding, and dispose of motions for the discovery and pro-
21 duction of relevant documents and things for inspection,
22 copying, or photographing, (5) regulate the course of the
23 hearings, (6) direct the parties to appear and confer to
24 consider the simplification of the issues, admissions of fact
25 or of documents to avoid unnecessary proof, and limitation of

1 the number of expert witnesses, and issue an appropriate
2 order therefor which shall control the subsequent course of
3 the proceeding, (7) dispose of motions to dismiss for lack of
4 jurisdiction by the agency over the subject matter or parties
5 or for any other proper reason, (8) dispose of motions to
6 amend, or to dismiss without prejudice, application and other
7 pleadings, (9) dispose of procedural requests or similar
8 matters, (10) make decisions, (11) reprimand or exclude
9 from the hearing any person for any improper or indecorous
10 conduct in their presence, and (12) take any other action
11 authorized by any rule consistent with this Code or in accord-
12 ance, to the extent practicable, with the trial procedure in
13 the United States district courts.

14 “(c) INTERLOCUTORY APPEALS.—A presiding officer
15 may certify to the agency, or allow the parties an interlocu-
16 tory appeal on, any material question arising in the course
17 of a proceeding, where he finds that it is necessary to do so to
18 prevent substantial prejudice to any party or to expedite
19 the conduct of the proceeding. The presiding officer or the
20 agency may thereafter stay the proceeding if necessary to
21 protect the substantial rights of any of the parties therein.
22 The agency, or such one or more of its members as it may
23 designate, shall determine the question forthwith, and the
24 hearing and further decision shall thereafter be governed

1 accordingly. No interlocutory appeal shall otherwise be
2 allowed.

3 “(d) EVIDENCE.—Except as otherwise provided by
4 statute, the proponent of a rule or order shall have the burden
5 of proof, and every party to any agency proceeding shall
6 have the right to present his case or defense by oral or docu-
7 mentary evidence, to submit rebuttal evidence, and to con-
8 duct such cross examination as may be required for a full
9 and true disclosure of the facts. In rule making, any oral
10 or documentary evidence may be received, but, as a matter
11 of policy, there shall be excluded all irrelevant, immaterial,
12 or unduly repetitious evidence. No rule shall be made by
13 any agency except upon consideration of the whole record,
14 or such portions thereof as may be cited by the parties to
15 the agency proceeding, and any such rule shall be supported
16 by and shall be in accordance with the reliable, probative,
17 and substantial evidence in the record. In adjudications,
18 the rules of evidence and requirements of proof shall con-
19 form, to the extent practicable, with those in civil nonjury
20 cases in the United States district courts. The agency may
21 by general rule adopt procedures, or the presiding officer
22 may specially provide, for the submission of all or part of
23 the evidence in written form, provided that no party is sub-
24 stantially prejudiced thereby. The complete transcript of the

1 record in any agency proceeding shall be made available to
2 the parties upon payment of lawfully prescribed costs.

3 “(c) OFFICIAL NOTICE.—Where the decision by any
4 agency includes official notice of a material fact beyond the
5 evidence appearing in the record, the decision shall be with-
6 out force or effect unless (1) the fact so noticed is specified
7 in the record or is brought to the attention of the parties
8 before decision, and (2) every party adversely affected by
9 the decision is afforded an opportunity to controvert the fact
10 so noticed: *Provided*, That nothing in this subsection shall
11 affect the application by an agency in appropriate circum-
12 stances of the doctrine of judicial notice.

13 “DECISIONS

14 “SEC. 206. In every case of adjudication and rule mak-
15 ing required under the Constitution or by statute to be deter-
16 mined after opportunity for an agency hearing—

17 “(a) SUBMITTALS AND DECISIONS.—Prior to each
18 decision by an agency which presides, or the initial decision
19 by a presiding officer in an agency proceeding, the parties
20 to the agency proceeding shall be afforded an opportunity to
21 submit (1) proposed findings of fact, and (2) both written
22 and oral argument. Upon review of any initial decision, the
23 agency shall afford the parties an opportunity to submit (1)
24 written exceptions to the decision, (2) written briefs and
25 arguments thereon, and (3) oral argument unless it shall

1 find that full and adequate presentation of the issues does not
2 so require. The official record shall show the ruling upon
3 each finding or exception presented; and, in the absence
4 thereof, no agency action, decision, conclusion, or finding
5 based thereon shall be final or effective. All decisions and
6 initial decisions shall include a statement of (1) findings
7 and conclusions, as well as the reasons or basis therefor,
8 upon all the material issues of fact, law, or discretion pre-
9 sented on the record, and (2) the appropriate rule, order,
10 sanction, relief, or denial thereof; and such decisions and
11 initial decisions shall become a part of the official record of
12 the case and be available for public inspection and copying.

13 “(b) RECORD FOR DECISIONS.—For the purpose of the
14 decision by an agency which presides, or the initial decision
15 by a presiding officer in an agency proceeding, the record
16 shall include (1) all pleadings, motions, and intermediate
17 rulings, (2) evidence received or considered, including oral
18 testimony, exhibits, and matters officially noticed, (3) offers
19 of proof and rulings thereon, and (4) the findings proposed.
20 No other evidence shall be considered by the agency or by
21 the presiding officer. In cases in which the agency has pre-
22 sided at the reception of the evidence, the agency shall
23 prepare, file, and serve upon the parties its decision. In all
24 other cases the presiding officer shall prepare and file an

1 initial decision, except where the parties to the proceeding,
2 upon the closing of the record and with the consent of the
3 agency, expressly waive their right to have an initial decision
4 rendered by the presiding officer. In the absence of an ap-
5 peal to the agency or a review upon motion of the agency
6 within the time provided for such review by rule, every
7 such initial decision shall thereupon become the decision of the
8 agency.

9 “(c) REVIEW BY AGENCY.—For the purpose of review
10 by the agency of the initial decision of the presiding officer,
11 the record shall include (1) all matters constituting the
12 record upon which such initial decision by the presiding
13 officer was based, (2) the rulings upon the proposed find-
14 ings, (3) the initial decision and findings of the presiding
15 officer, and (4) the exceptions filed. No other evidence shall
16 be considered by the agency upon such review. Issues may
17 be limited on review by agency rule or upon notice to the
18 parties to the proceeding. On review of initial decisions in
19 adjudications and in rulemaking required under the Constitu-
20 tion or by statute to be made after hearing, the scope of re-
21 view by the agency, except for questions of policy committed
22 to the determination of the agency by the Congress, shall be
23 the same as that of the court upon review of the decision of
24 the agency. The agency may either remand the case to the
25 presiding officer for such further proceedings as it may

1 direct, or it may affirm, set aside, or modify the order, or
2 any sanction or relief entered thereon, in conformity with the
3 facts and the law.

4 “(d) NONAVAILABILITY OF PRESIDING OFFICERS.—In
5 any case in which an officer who has presided at the recep-
6 tion of evidence in an agency proceeding is disqualified or
7 otherwise becomes unavailable, another presiding officer shall
8 be assigned to continue with the case and thereupon shall
9 have all the duties and powers of the officer he replaces.

10 “JUDICIAL REVIEW

11 “SEC. 207. In order to assure a plain, simple, and
12 prompt judicial remedy for every legal wrong resulting
13 from agency action, and notwithstanding any limitation by
14 statute on the jurisdictional amount in controversy—

15 “(a) RIGHT OF REVIEW.—Any person adversely af-
16 fected or aggrieved by agency action, including the failure of
17 an agency to comply with any provision of this Code, shall
18 be entitled to judicial review thereof. Proceedings for re-
19 view may be brought against (1) the agency by its official
20 title, (2) individuals who comprise the agency, or (3) any
21 person representing the agency or acting on its behalf or
22 account or under color of its authority.

23 “(b) FORM OF ACTION.—A person so adversely af-
24 fected or aggrieved may contest the validity of agency action

25 in a civil or criminal case brought by the agency, or on its

1 behalf, for judicial enforcement, regardless of the availability
2 or pendency of administrative review proceedings with re-
3 spect to such agency action. All other cases for review of
4 agency decisions shall be commenced by the filing of a peti-
5 tion for review in the United States district court of appro-
6 priate jurisdiction except where a statute provides for judi-
7 cial review in a specially constituted or named court. The
8 petition shall contain the grounds upon which jurisdiction and
9 venue are based, a concise and plain statement of the facts
10 upon which petitioner bases his claim that he has been ad-
11 versely affected or aggrieved, the reasons which the peti-
12 tioner asserts entitle him to relief, and a statement of the
13 relief which the petitioner seeks.

14 “(c) REVIEWABLE ACTS.—Every agency action shall
15 be subject to judicial review. Any preliminary, procedural,
16 or intermediate agency act or ruling shall be immediately
17 reviewable in any case in which review of the final agency
18 action would not provide an adequate remedy. Agency
19 action shall be reviewable for the purposes of this section
20 whether or not (1) any application for a declaratory order
21 or any other form of reconsideration has been presented or
22 considered, or (2) an appeal to superior agency authority
23 has been taken, except where during the pendency thereof
24 the agency provides that such action shall be inoperative.

25 “(d) INTERIM RELIEF.—Upon a finding that irrepar-

1 able injury will otherwise result, (1) the agency, or the
2 presiding officer in the case whose initial decision has be-
3 come final and is the subject of the review, either on motion
4 or on application therefor, shall postpone the effective date
5 of the agency action pending judicial review, and (2) every
6 reviewing court, including every court to which a case may
7 be taken on appeal from or upon application for certiorari or
8 other writ to a reviewing court, upon application therefor
9 and regardless of whether such an application previously
10 shall have been made or denied by any agency or presiding
11 officer, shall issue all necessary and appropriate process to
12 postpone the effective date of any agency action or to pre-
13 serve the status of the case or the rights of the parties pend-
14 ing conclusion of the review proceedings.

15 “(c) RECORD ON REVIEW.—In every case of agency
16 action subject to sections 205 and 206 of this Code, the record
17 on review shall include (1) all matters constituting the
18 record for action or review by the agency, (2) rulings upon
19 exceptions, and (3) the decision, findings, and action of
20 the agency. In every such case the reviewing court by rule,
21 or the parties by stipulation, may limit the record on review,
22 and agencies as well as private parties shall be subject to the
23 assessment of costs in the discretion of the reviewing court
24 for inclusion of matter in the record on review which is not
25 relevant to the issues to be decided upon review. In all other

1 cases, the record on review shall be made by trial de novo in
2 the reviewing court and shall include all papers, documents,
3 records, reports, statements, or other written matter filed
4 with or submitted to the agency under the provision of any
5 order, rule, or regulation of the agency, or of any applicable
6 statute, and all forms of agency action taken or denied
7 thereon.

8 “(f) SCOPE OF REVIEW.—The reviewing court shall de-
9 termine whether agency findings, inferences, conclusions,
10 or actions (1) are arbitrary or capricious, (2) constitute
11 an abuse or clearly unwarranted exercise of discretion, or a
12 denial of statutory right, (3) are contrary to constitutional
13 right, power, privilege, or immunity, (4) are in excess of
14 statutory jurisdiction, authority, purposes, or limitations, (5)
15 fail to comply with the procedures or procedural limitations
16 imposed by this Code or otherwise required by law, or (6)
17 (i), to the extent that cases are subject to sections 205 and
18 206 of this Code, are clearly erroneous in view of the reliable,
19 probative, and substantial evidence on the whole record, or
20 (ii), in all other cases or with respect to all other issues, are
21 unwarranted by the facts as established and determined in
22 and by the reviewing court.

23 “(g) DECISIONS ON REVIEW.—The reviewing court
24 shall disregard technical errors which it finds to be nonpreju-

1 dicial. The reviewing court shall determine all relevant
2 questions of law and interpret any constitutional and statutory
3 provisions involved, and it shall apply such determination
4 to the facts duly found or established, whether or not such
5 court is the trier of the facts. To the extent that any agency
6 action is found by the reviewing court to be in accordance
7 with law in all material respects, the court shall direct any
8 appropriate enforcement requested. Where the agency ac-
9 tion is found by the reviewing court not to be in accordance
10 with law in any material respect, the court shall (1) compel
11 agency action to be taken which has been unlawfully with-
12 held or unjustifiably delayed, (2) set such action aside
13 and restrain the enforcement thereof, and (3) afford such
14 other relief as may be appropriate in the premises. The
15 court shall not modify, amend, or revise any agency rule,
16 order, or process, but, after having pronounced the law
17 applicable, shall remand the case to the agency. The agency
18 shall thereupon proceed in the case as it may deem proper,
19 but only within its jurisdiction and in accordance with the
20 judgment of such court.

21 “(h) CONCURRENT JURISDICTION.—Where de novo
22 judicial review is provided by statute of decisions of agencies
23 which may be entered only after a hearing required under
24 the Constitution or by statute, the parties to the agency

1 proceeding may elect to have the case tried and determined
2 in the first instance in a court which would have jurisdiction
3 to review de novo the final decision of the agency.

4 "LIMITATIONS OF AUTHORITY

5 "SEC. 208. In the exercise of any power, authority, or
6 discretion by any agency, or by any officer or employee
7 thereof—

8 "(a) IN GENERAL.—No sanction shall be imposed and
9 no substantive rule or order shall be issued except within the
10 letter, purpose, and intent of applicable statutes and the
11 limitations of jurisdiction, powers, and authority prescribed
12 by statute or otherwise imposed by law. Agency action
13 shall not be deemed to be within the statutory authority and
14 jurisdiction of the agency merely because such action is not
15 contrary to the specific provisions of a statute.

16 "(b) NOTICE BY RULE.—No sanction shall be imposed
17 against a person for pursuing a normal, customary, or previ-
18 ously acceptable course of conduct, unless such conduct shall
19 have been proscribed or restricted by a generally applicable
20 rule of the agency. For such purposes, every agency is
21 authorized to make and promulgate appropriate rules.

22 "(c) GOOD FAITH RELIANCE.—No sanction shall be
23 imposed by any agency for any act done or omitted in good
24 faith by any person in conformity with, or in reliance upon,
25 any rule, or any advisory letter, opinion, or other written

1 statement of the agency addressed in writing to such person
2 and obtained by him without fraud or material misrepre-
3 sentation, notwithstanding the fact that, after such act or
4 omission has taken place, such rule, or such letter, opinion,
5 or other written statement is modified, amended, rescinded,
6 revoked, or held invalid by the agency for any reason.
7 Agencies shall by rule designate the classes of officials who
8 are authorized to issue advisory letters, opinions, and other
9 written statements upon which reliance may be placed.

10 “(d) REPETITIOUS AGENCY PROCEEDINGS.—Not more
11 than one hearing shall be held in any proceeding sub-
12 ject to section 205 of this Code except on remand by an
13 agency to a presiding officer, or on remand by a reviewing
14 court to the agency, or upon stipulation of all parties to the
15 proceeding.

16 “(e) PUBLICITY.—Agency publicity, which a review-
17 ing court finds was issued to discredit a person under in-
18 vestigation or a party to an agency proceeding, may be con-
19 sidered by the court as a prejudicial prejudging of the issues
20 in controversy, and the court may set aside any action taken
21 by the agency against such person or party or enter such
22 further order as it deems appropriate in the premises.

23 “(f) TERMS OF RULES AND ORDERS.—No court shall
24 in any manner enforce any agency rule or order, or hold

1 the same to be valid or effective, except within the literal,
2 definite, and specific terms thereof. Every reviewing court
3 shall declare any such rule or order to be unlawful if its
4 terms (1) are vague, indefinite, or uncertain in any material
5 respect, or (2) exceed the scope permissible upon the facts
6 or the record on which such agency action is required to be
7 made or sought to be justified.

8 “(g) PROCEEDINGS IN EXCESS OF JURISDICTION.—

9 Any court of competent jurisdiction may intervene at any
10 time to prevent by injunction or otherwise the holding or
11 conducting of any agency proceeding in which the action
12 proposed to be taken by the agency is beyond the constitu-
13 tional or statutory jurisdiction or authority of the agency.

14 “LOYALTY AND SECURITY PROCEEDINGS

15 “SEC. 209. The provisions of sections 205, 206, and 207
16 of this Act shall apply in all proceedings which may result
17 in the dismissal of an officer or employee of the Federal
18 Government on grounds related in whole or in part to con-
19 siderations of his loyalty or security.

20 “TITLE III—OFFICE OF LEGAL SERVICES AND
21 PROCEDURE

22 “ESTABLISHMENT

23 “SEC. 300. There shall be in the Department of Jus-
24 tice an Office of Legal Services and Procedure which shall
25 be under the direction of an officer learned in the law to be

1 known as the Director of the Office of Legal Services and
2 Procedure.

3 "FUNCTIONS

4 "SEC. 301. The Director of the Office of Legal Services
5 and Procedure shall issue directives to agencies (1) for the
6 simplification, clarification, and uniformity of rules of sub-
7 stance and procedure, (2) for compliance with or making
8 exceptions to the public information requirements of section
9 200 of this Code in accordance with the provisions of that
10 section, and (3) for the furnishing of reports and statistical
11 data relating to legal services and procedures of agencies.
12 The Director shall perform such other duties as the Attorney
13 General may prescribe.

14 "APPOINTMENT OF DIRECTOR

15 "SEC. 302. The Director of the Office of Legal Services
16 and Procedure shall be appointed by the President, by and
17 with the advice and consent of the Senate. His compensa-
18 tion shall be at the rate of \$15,000 a year.

19 "INSPECTION

20 "SEC. 303. The Director of the Office of Legal Services
21 and Procedure, or an assistant designated by him, shall have
22 authority to examine the records, files, and dockets of agen-
23 cies at all reasonable times in the performance of his duties
24 under this title.

1 "COMPLIANCE

2 "SEC. 304. All agencies shall comply with directives
3 and requests of the Director of the Office of Legal Services
4 and Procedure issued or made in accordance with the provi-
5 sions of this title.

6 "TITLE IV—ADMINISTRATIVE COURT OF THE
7 UNITED STATES

8 "ESTABLISHMENT

9 "SEC. 400. There is hereby established a court of record
10 which shall be known as the Administrative Court of the
11 United States, hereinafter referred to as the 'Administrative
12 Court'. The Court shall consist of three sections, a Tax Sec-
13 tion with sixteen judges, a Trade Section with three judges,
14 and an Immigration Section with five judges. All judges
15 of the Administrative Court shall be appointed by the Presi-
16 dent, by and with the advice and consent of the Senate, ex-
17 cept that the judges of the Tax Court of the United States
18 in office on the effective date of this Code are hereby trans-
19 ferred to the Tax Section of the Administrative Court and
20 shall serve as judges thereof until their respective terms
21 expire, or they shall retire or resign, or are otherwise re-
22 moved from office in accordance with law. The President
23 shall designate one of the judges of the Administrative Court
24 as the Chief Judge of such Court. A vacancy in the office
25 of judge of such Court shall be filled in the same manner

1 as in the case of an original appointment to such office. The
2 Administrative Court shall have a seal which shall be judi-
3 cially noticed.

4 "TENURE, SALARIES, AND OFFICIAL STATION OF JUDGES

5 "SEC. 401. Judges of the Administrative Court shall
6 hold office during good behavior, except as otherwise pro-
7 vided in section 400 of this Code. The Chief Judge and
8 each associate judge shall receive a salary at the rate of
9 \$15,000 a year. The official station of the judges of the
10 Administrative Court shall be the District of Columbia.

11 "PRECEDENCE OF JUDGES

12 "SEC. 402. The Chief Judge of the Administrative Court
13 shall have precedence and shall preside over the Adminis-
14 trative Court. In the absence or disability of the Chief
15 Judge, other judges shall have precedence and preside ac-
16 cording to the seniority of their commissions. Judges whose
17 commissions bear the same date shall have precedence ac-
18 cording to seniority in age.

19 "RESIGNATION AND RETIREMENT OF JUDGES

20 "SEC. 403. The provisions of chapter 17 of title 28
21 of the United States Code shall apply to the judges of the
22 Administrative Court: *Provided*, That any judge serving
23 on the Tax Court of the United States upon the effective
24 date of this Code may elect in a writing filed with the Chief
25 Judge of the Administrative Court within thirty days after

1 the effective date of this Code to continue instead to be sub-
2 ject to the provisions of section 7447 of the Internal Reve-
3 nue Code of 1954: *Provided further*, That service as a
4 judge of the Tax Court and as a judge of the Administrative
5 Court shall be credited for either purpose.

6 "SECTIONS AND DIVISIONS

7 "SEC. 404. (a) SECTIONS.—The Chief Judge of the
8 Administrative Court may assign one or more judges within
9 the Tax, Trade, and Immigration Sections thereof to sit
10 upon any other Section whenever the business of the Court
11 so requires. Each Section shall elect a Presiding Judge
12 thereof annually from among its members, but the Chief
13 Judge of the Administrative Court shall not serve as Presid-
14 ing Judge.

15 "(b) DIVISIONS.—The Presiding Judge of each Section
16 may from time to time divide such Section into divisions of
17 one or more judges, assign the judges of the Section thereto,
18 and, in case of a division of more than one judge, designate a
19 Presiding Judge thereof. If at any time a division, as a result
20 of a vacancy or the absence or inability of a judge assigned
21 thereto, is composed of less than the number of judges desig-
22 nated for the division, the Presiding Judge of such Section
23 may assign other judges to the division, or may direct the
24 division to proceed with the transaction of business without

1 assigning any additional judges thereto if there is a quorum
2 of such division without such assignment.

3 "SESSIONS, QUORUM, AND VACANCIES

4 "SEC. 405. (a) SESSIONS.—The sessions of the Admin-
5 istrative Court and of each Section, division, and judge thereof
6 may be held at such times and places within the United
7 States as the court or Section may fix by rule.

8 "(b) QUORUM.—A majority of the judges of any Sec-
9 tion of the Administrative Court or of any division of any
10 such Section shall constitute a quorum for the transaction
11 of the business of such Section or division, respectively.

12 "(c) VACANCIES.—A vacancy in any Section or in any
13 division thereof shall not impair the powers or affect the
14 duties of that Section or division, or of the remaining judges
15 of the Section or division, respectively.

16 "COUNCIL

17 "SEC. 406. (a) ESTABLISHMENT.—The Chief Judge of
18 the Administrative Court and the Presiding Judge of each
19 Section thereof shall constitute collectively the Council of
20 the Administrative Court, hereinafter referred to as the
21 'Council'.

22 "(b) DUTIES.—The Council shall meet from time to
23 time, upon call of the Chief Judge, to survey the condition
24 of the business in the Sections of the Administrative Court,

1 The Council shall prepare plans for the assignment of judges
2 from Sections where necessary, shall review and approve or
3 disapprove the rules of each Section, and shall submit sug-
4 gestions to the various Sections in the interest of uniformity
5 and expedition of business. The Council shall designate and
6 appoint three or more members of the Administrative Court
7 with exclusive jurisdiction to hear and determine, from time
8 to time as the occasion may require, all cases or controversies
9 respecting the selection, tenure, suspension, or discharge of
10 hearing commissioners. The Council shall approve, dis-
11 approve, or modify such rules as the Chief Hearing Commis-
12 sioner, provided for by section 500 of this Code, may
13 propose with respect to personnel supervision of hearing
14 commissioners.

15 "COURT COMMISSIONERS

16 "SEC. 407. (a) APPOINTMENT.—The Council shall
17 appoint court commissioners in such numbers as may be
18 required to enable each Section to exercise its jurisdiction.
19 Each court commissioner shall receive compensation at the
20 rate of \$14,000 a year, and all necessary traveling expenses
21 and reasonable maintenance expenses actually incurred while
22 taking testimony or transacting other official business at
23 a place other than his official station.

24 "(b) ASSIGNMENT.—The Chief Judge shall assign

1 court commissioners as the business of each Section may
2 require.

3 “(c) POWERS AND DUTIES.—Court commissioners may,
4 in accordance with the rules and orders of the Administrative
5 Court or any Section thereof, have and exercise all the powers
6 of a judge of such Court, or such portion thereof as may be
7 authorized.

8 “ADMINISTRATIVE OFFICE AND PERSONNEL

9 “SEC. 408. The principal administrative office of the
10 Administrative Court and the Sections thereof shall be at the
11 seat of the Government. The Council shall appoint a Chief
12 Clerk and such other clerks, marshals, deputies, and em-
13 ployees as may be required to assist the Council, and the
14 Administrative Court and the Sections, divisions, judges, and
15 commissioners thereof, in the performance of their duties.

16 “POWERS AND PROCEDURE

17 “SEC. 409. (a) POWERS GENERALLY.—The Admin-
18 istrative Court and each Section, division, and judge thereof
19 shall, in all actions and proceedings, possess all the powers
20 of a district court of the United States, except as provided in
21 subsection (b) of this section.

22 “(b) PROCEDURE GENERALLY.—Proceedings before the
23 Administrative Court and before any Section, division, judge,

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1 or commissioner thereof shall be governed by the Rules of
2 Civil Procedure for the District Courts of the United States
3 to the extent practicable. Such rules may be supplemented
4 by rules adopted by the Administrative Court, and by its
5 Sections with the approval of the Council. There shall be no
6 right to have issues of fact determined by a jury in any action
7 or proceeding in the Administrative Court.

8 “(c) REPORTS BY COURT COMMISSIONERS.—The ap-
9 propriate Section of the Administrative Court shall provide
10 opportunity for any party to file exceptions to a court com-
11 missioner’s decision, report of findings, or recommenda-
12 tions for conclusions of law, and to have a hearing thereon
13 which may be oral or written as the Section shall prescribe
14 by rule, within such reasonable time as the Section shall
15 prescribe. Commissioners shall, in accordance with the
16 rules and orders of the court, fix times for hearings, ad-
17 minister oaths, examine witnesses, receive evidence, and
18 report findings of fact and recommendations for conclusions
19 of law in cases assigned to them.

20 “JURISDICTION

21 “SEC. 410. (a) TRADE SECTION.—The Trade Section
22 of the Administrative Court shall have jurisdiction to conduct
23 proceedings, render judgments, and issue orders under the
24 following statutes:

1 “(1) Section 11 of the Clayton Act (38 Stat.
2 734), as amended (U. S. C., title 15, sec. 21) ;

3 “(2) Section 5 of the Federal Trade Commission
4 Act (38 Stat. 719), as amended (U. S. C., title 15,
5 sec. 45) ;

6 “(3) Section 411 of the Civil Aeronautics Act (52
7 Stat. 1003), as amended (U. S. C., title 49, sec. 491) ;

8 “(4) Section 337 (c) of the Tariff Act of 1930
9 (46 Stat. 703), as amended (U. S. C., title 19, sec.
10 1337 (c)) ;

11 “(5) Section 314 (c) of the Federal Power Act,
12 as amended (U. S. C., title 16, sec. 825m) ;

13 “(6) Section 312 (b) of the Communications Act
14 (48 Stat. 1086), as amended (U. S. C., title 47, sec.
15 312 (b)) ;

16 “(7) Section 2 of the Act of June 25, 1934 (48
17 Stat. 1214), as amended (U. S. C., title 15, sec. 522) ;

18 “(8) Sections 203 and 205 of the Packers and
19 Stockyards Act (42 Stat. 161), as amended (U. S. C.,
20 title 7, sec. 193) ; and

21 “(9) Section 2 of the Act of February 18, 1922
22 (42 Stat. 388), (U. S. C., title 7, sec. 292).

23 “(b) TAX SECTION.—The Tax Section of the Adminis-
24 trative Court shall have the same jurisdiction as provided

1 by law on the effective date of this Code for the Tax Court
2 of the United States. Every statutory reference to the Tax
3 Court shall be deemed to apply to the Administrative Court,
4 Tax Section, except where inconsistent with a provision of
5 this Code, in which event the provisions of this Code shall
6 apply. Any case pending in the Tax Court of the United
7 States upon the effective date of this Code shall continue for
8 all purposes as a case in the Tax Section of the Administra-
9 tive Court.

10 “(c) IMMIGRATION SECTION.—The Immigration Sec-
11 tion of the Administrative Court shall have jurisdiction to
12 conduct proceedings, render judgment, and issue orders as
13 specified in the Immigration and Nationality Act (66 Stat.
14 166), as amended (U. S. C., title 8, sec. 1101).

15 “REVIEW

16 “SEC. 411. A party to a proceeding before the Admin-
17 istrative Court, or any Section, division, or judge thereof,
18 may obtain review of any judgment or order entered therein
19 in the court of appeals of the United States within any cir-
20 cuit in which (1) the act or practice in question occurred,
21 (2) the party resides or is engaged in business, or (3) the
22 proceeding was heard by a judge or commissioner of the
23 Administrative Court. The court of appeals shall review
24 such judgment or order in the same manner and to the same
25 extent as decisions of the United States district courts in civil

1 nonjury cases are reviewed. The judgment of the court of
2 appeals shall be final, except that it shall be subject to
3 review by the Supreme Court of the United States in the
4 manner provided in section 1254 of title 28 of the United
5 States Code.

6 "REPRESENTATION

7 "SEC. 412. (a) UNITED STATES.—In any proceeding
8 before the Administrative Court, or any Section, division,
9 or judge thereof, the United States shall be represented either
10 by the chief legal officer of the agency which initiated the
11 proceeding, if his appointment was made pursuant to specific
12 statutory authority therefor, or by the Attorney General.

13 "(b) PRIVATE PARTIES.—Private parties shall be rep-
14 resented by attorneys at law in all proceedings for any pur-
15 pose in the Administrative Court; except that any person
16 who is licensed to appear before the Tax Court of the United
17 States upon the effective date of this Code may continue to
18 represent private parties before the Tax Section of such
19 Court.

20 "TITLE V—HEARING COMMISSIONERS

21 "CHIEF HEARING COMMISSIONER

22 "SEC. 500. There shall be attached to the Administra-
23 tive Court an officer learned in the law to perform duties
24 relating to the personnel supervision of the senior hearing
25 commissioners and the hearing commissioners provided for

1 in section 502 of this Code. He shall be called the Chief
2 Hearing Commissioner, shall be appointed by the President,
3 by and with the advice and consent of the Senate, for a term
4 of twelve years, and shall receive a salary at the rate of
5 \$15,000 a year. During his term of office, the Chief Hearing
6 Commissioner may be removed only for cause, by and after
7 opportunity for hearing before the Council established by
8 section 406 of this Code, and upon the grounds specified in
9 section 507 (a) hereof.

10 "ADVISORY COMMITTEE

11 "SEC. 501. There shall be an Advisory Committee to
12 the Chief Hearing Commissioner, hereinafter referred to as
13 the 'committee', which shall be appointed by the Council
14 of the Administrative Court. The committee shall consist
15 of five members, not more than three of whom shall be mem-
16 bers of the same political party. The chairman of the com-
17 mittee shall be a judge of the Administrative Court, two
18 members thereof shall be officials of agencies, and the other
19 two members shall be attorneys-at-law experienced in rep-
20 resenting persons, parties, or organizations before agencies.
21 Four members of the committee shall constitute a quorum.
22 The Administrative Court shall provide such facilities and
23 services as the committee shall require. The committee shall
24 prepare, publish, and periodically review and modify, as it

1 deems advisable, qualifications for the appointment of senior
2 hearing commissioners and hearing commissioners.

3 "HEARING COMMISSIONERS

4 "SEC. 502. There shall be such number of senior hear-
5 ing commissioners and hearing commissioners as the Chief
6 Hearing Commissioner, in consultation with the agencies
7 concerned, determines to be necessary to conduct the hear-
8 ings for agencies pursuant to sections 205 and 206 of this
9 Code. The term 'hearing commissioner' as hereinafter used
10 in this title includes hearing commissioner and senior hearing
11 commissioner unless otherwise indicated.

12 "APPOINTMENT

13 "SEC. 503. (a) FORMER HEARING EXAMINERS.—Ini-
14 tial appointments of hearing commissioners shall be made
15 exclusively from persons who have served as examiners
16 under section 11 of the Administrative Procedure Act for
17 a period of at least one year immediately preceding the
18 effective date of this Code. No other person shall be ap-
19 pointed a hearing commissioner until the expiration of two
20 years from the effective date of this Code, unless within such
21 period all such examiners have been given the opportunity
22 of appointment as hearing commissioners.

23 "(b) TEMPORARY APPOINTMENT.—All examiner posi-
24 tions heretofore established or existing pursuant to section 11

1 of the Administrative Procedure Act are hereby terminated.
2 A person serving as an examiner under such section 11 may
3 be retained as a temporary hearing commissioner until
4 he is appointed a hearing commissioner under this Code.
5 Temporary hearing commissioners may be removed either
6 because of reduction in force or for cause. Removal for
7 cause shall be in accordance with the procedures prescribed
8 by section 507 of this Code. No person who is serving as a
9 temporary hearing commissioner shall receive increased
10 compensation by reason of the enactment of this Code.

11 “(c) PERMANENT APPOINTMENT.—Hearing commis-
12 sioners shall be nominated for appointment by the Chief
13 Hearing Commissioner, who shall submit the name of each
14 nominee to the committee together with the complete file of
15 information upon the basis of which the nomination was
16 made. The committee shall meet upon call of its chairman
17 and shall, within thirty days after receipt of the nomination,
18 certify that the nominee is or is not qualified for appointment.
19 The committee may interview the nominee and other in-
20 formed persons. If, by majority vote of the members pres-
21 ent, the committee shall disapprove the nominee as not
22 qualified, the nominee shall not be appointed. If the com-
23 mittee shall approve the nomination, the Chief Hearing Com-
24 missioner shall forthwith appoint the person to the position
25 for which he was nominated.

1 "ASSIGNMENT

2 "SEC. 504. The Chief Hearing Commissioner shall re-
3 quire all agencies to utilize hearing commissioners for hear-
4 ings required by law to be conducted by hearing commis-
5 sioners, and no agency shall utilize hearing commissioners
6 for any other purpose. Any conflict between an agency and
7 the Chief Hearing Commissioner in this respect shall be
8 resolved by the Council of the Administrative Court of the
9 United States. The Chief Hearing Commissioner shall
10 assign and transfer hearing commissioners to and from
11 agencies as he may determine to be necessary for the most
12 efficient conduct of the hearings required to be held by such
13 agencies.

14 "COMPENSATION

15 "SEC. 505. Hearing commissioners shall receive com-
16 pensation at the rate of \$12,000 a year. Senior hearing
17 commissioners shall receive compensation at the rate of
18 \$14,000 a year.

19 "TENURE

20 "SEC. 506. Hearing commissioners shall be appointed
21 for terms of eight years. Senior hearing commissioners shall
22 serve during good behavior.

23 "SUSPENSION AND REMOVAL

24 "SEC. 507. (a) GROUNDS.—Hearing commissioners
25 shall be suspended or removed only for incompetence, neg-

1 lect of duty, misconduct in office, misconduct out of office
2 involving moral turpitude, or physical or mental disability,
3 which shall be determined after opportunity for hearing as
4 hereinafter provided.

5 “(b) PROCEDURE.—All complaints against hearing
6 commissioners shall be submitted to the Chief Hearing Com-
7 missioner. If in his judgment a complaint may warrant
8 the suspension or removal of a hearing commissioner, the
9 Chief Hearing Commissioner shall prepare charges and
10 specifications which he shall file with the clerk of the Ad-
11 ministrative Court of the United States, who shall set the
12 matter for hearing before the committee of judges named
13 for that purpose by the Council of the Administrative Court,
14 and who shall cause a copy of the charges and specifications
15 and notice of hearing to be served upon the hearing commis-
16 sioner involved. An order of suspension or removal of a
17 hearing commissioner by the committee of judges shall be
18 final, and the hearing commissioner against whom such order
19 is made shall be forthwith suspended or removed. Within
20 sixty days thereafter such hearing commissioner may request
21 review of the order by the Council, sitting in banc. If the
22 Council grants the request, it may consider the same accord-
23 ing to any procedure it deems appropriate. After such con-
24 sideration, the Council may order the hearing commissioner

1 reinstated under such conditions as it may reasonably
2 require, or it may confirm the order of suspension or
3 removal.

4 "CALENDAR AND REPORTS

5 "SEC. 508. A master calendar of agency hearings, open
6 for public inspection, shall be maintained in the office of the
7 Chief Hearing Commissioner. Agencies shall provide the
8 Chief Hearing Commissioner with any information which he
9 shall require to maintain such calendar in an active and cur-
10 rent status and with such other information and statistical
11 data as he shall reasonably require with respect to the work
12 of the hearing commissioners.

13 "TITLE VI—APPEARANCE AND
14 REPRESENTATION

15 "APPEARANCE

16 "SEC. 600. Every party to an agency proceeding shall
17 be accorded the right to appear in person or by or with any
18 attorney-at-law in good standing or, where permitted by
19 agency rule, by any other duly qualified representative; and
20 any person appearing in person before any agency or repre-
21 sentative thereof shall be accorded the right to be accom-
22 panied, represented, and advised by any attorney-at-law in
23 good standing or, where permitted by agency rule, by any
24 other duly qualified representative. Any threatened or con-

1 tinuing denial of such rights may, on application to any court
2 of competent jurisdiction, be corrected by an appropriate
3 order of such court.

4 “GENERAL STANDARDS OF CONDUCT

5 “SEC. 601. (a) IN GENERAL.—Every individual who
6 for any fee, salary, or other compensation, paid directly or
7 indirectly, holds himself out as one who represents any pub-
8 lic or private person, party, or organization, including the
9 United States or any agency thereof, before any agency shall
10 not—

11 “(1) directly or indirectly solicit clients;

12 “(2) advertise in any manner his attainments or
13 services in representing others before an agency, except
14 as expressly authorized by rule of the agency;

15 “(3) communicate privately with any agency, or
16 with any members, representatives, or presiding officer
17 thereof, with respect to the disposition of a contested
18 case, action, or proceeding; or discuss the merits of such
19 contested case, action, or proceeding with the agency, or
20 with any member or presiding officer thereof in the
21 absence of his adversary or without notice to his ad-
22 versary;

23 “(4) attempt to sway the judgment or to influence
24 the action of any agency, any of its officials or employees,
25 or any presiding officer (i) by the use of threats, false

1 accusations, or duress, (ii) by the offer of any special
2 inducement or promise of advantage, (iii) by the
3 bestowing of any gift or favor or other thing of value,
4 (iv) by enlisting the influence or intercession of public
5 officers, or (v) by threats of political or personal
6 reprisal;

7 “(5) engage in improper or indecorous conduct
8 in the presence of a presiding officer in any agency pro-
9 ceeding; or,

10 “(6) if any attorney-at-law, file a false statement
11 or fail to file any statement or amended statement in
12 conformity with section 602 of this Code.

13 Every agency shall issue rules to implement this subsection.

14 “(b) CONFLICT OF INTERESTS.—Except as otherwise
15 provided by statute, (1) no individual shall represent or
16 hold himself out as representing any person, party, or or-
17 ganization, other than the United States or any agency
18 thereof, before any agency or court of the United States in
19 any agency proceeding, or in the judicial review or enforce-
20 ment thereof, as to which that individual, while an em-
21 ployee of the United States, personally and in his official
22 capacity dealt with, passed upon, or gained knowledge of
23 the facts concerning such proceeding, or in the judicial
24 review or enforcement thereof, and (2) no individual, while
25 an employee of the United States, shall represent or hold

1 himself out as representing any person, party, or organiza-
2 tion other than the United States or any agency thereof
3 before any agency or court of the United States; except that
4 the agency which employs such individual may permit him
5 to engage in outside legal activities in connection with legal
6 matters involving his own family to the extent that the
7 agency finds that such activities will not interfere with the
8 performance of his official duties.

9 "REPRESENTATION BY ATTORNEYS-AT-LAW

10 "SEC. 602. (a) STATEMENT.—No attorney-at-law shall
11 be entitled to appear for or represent any public or private
12 person, party, or organization, including the United States
13 or any agency thereof, before any agency, except upon the
14 filing with such agency of a statement that he is a member
15 in good standing of the bar of the highest court of a State,
16 Territory, Commonwealth, or possession of the United States
17 or the District of Columbia, and that he is not under suspen-
18 sion by such agency. No other requirement for the appear-
19 ance before it of any attorney-at-law shall be imposed by
20 any agency, except that any agency may require the filing of
21 a power of attorney by any attorney-at-law as a prerequisite
22 to the settlement of any controversy.

23 "(b) EFFECT OF FILING.—Every agency shall recognize
24 and deal directly with an attorney-at-law who has filed with
25 it the statement required by subsection (a) hereof, with re-

1 spect to any matters concerning which he states that he rep-
2 resents a person, party, or organization before such agency.

3 “(c) AMENDED STATEMENT.—An attorney-at-law who
4 has filed with an agency the statement required by subsection
5 (a) hereof shall file an amended statement with the agency
6 to reflect any material change in his status as an attorney-
7 at-law prior to any further act of representation before the
8 agency.

9 “DISCIPLINE OF ATTORNEYS-AT-LAW

10 “SEC. 603. (a) FEDERAL GRIEVANCE COMMITTEE.—
11 There shall be appointed by the Chief Judge of the United
12 States Court of Appeals for the District of Columbia a
13 Federal Grievance Committee, hereinafter referred to as the
14 ‘Committee’, consisting of five attorneys-at-law, all of whom
15 shall be members in good standing of the bar of a United
16 States district court. Not more than three members of the
17 Committee shall belong to the same political party, and not
18 more than two members of the Committee shall be employ-
19 ees of the United States. Members shall serve for such terms
20 as the Chief Judge shall provide at the time of appointment,
21 but no such term shall exceed three years.

22 “(b) DUTIES OF COMMITTEE.—The Committee shall
23 receive complaints against attorneys-at-law arising out of the
24 representation before agencies of any public or private per-
25 son, party, or organization, including the United States and

1 any agency thereof. The Committee shall investigate all
2 complaints filed in good faith, except that complaints filed
3 against Government attorneys shall be first referred to the
4 Director of the Office of Legal Services and Procedure, estab-
5 lished pursuant to title III of this Code, for such investiga-
6 tion as he may desire to make. After investigation, the
7 Committee may dismiss the complaint with or without public
8 notice; or, for any violation of the general standards of con-
9 duct set forth in section 601 of this Code or of the standards
10 of professional conduct of any bar of which such attorney-at-
11 law is a member, it may (1) issue a private reprimand, (2)
12 issue a public reprimand, (3) initiate disciplinary proceed-
13 ings as provided in subsection (e) hereof, or (4) refer the
14 matter for disciplinary action to the appropriate authority
15 in the State, Territory, Commonwealth, or possession, or the
16 District of Columbia, in which the attorney is licensed to
17 practice law.

18 “(c) COMMITTEE POWERS.—The Committee shall have
19 the power to promulgate rules and regulations, administer
20 oaths and affirmations, issue subpoenas for the attendance of
21 witnesses and the production of relevant evidence, establish
22 procedures, conduct nonpublic hearings, and require the
23 submission of relevant information from any agency.

24 “(d) ASSISTANCE.—The Director of the Office of Legal
25 Services and Procedure established pursuant to Title III

1 of this Code shall provide the Committee with such facilities
2 and services as the Committee may reasonably request.

3 “(c) DISCIPLINARY PROCEEDINGS.—The United States
4 district court of the judicial district in which an attorney-at-
5 law is principally engaged in the practice of law shall have
6 jurisdiction to hear and determine disciplinary proceedings
7 instituted by the Committee against such attorney-at-law
8 and to reprimand or to suspend or disbar him from practice
9 before all agencies for violation of the general standards of
10 conduct set forth in section 601 of this Code, or of the
11 standards of professional conduct of any bar of which the
12 attorney is a member.

13 “(f) AGENCY ACTION.—For violation of the general
14 standards of conduct set forth in section 601 of this Code,
15 or for violation of such other standards of conduct as the
16 agency in the public interest may prescribe by rule, any
17 agency may suspend, for a period of not to exceed one year,
18 the right of an attorney-at-law to appear before that agency,
19 or to represent before it any public or private person, party
20 or organization, including the United States or any agency
21 thereof. The United States District Court for the District
22 of Columbia shall have jurisdiction to review in a subsequent
23 trial of the law and the facts de novo any such order of
24 suspension issued by the agency.

25 “(g) NOTIFICATION.—The appropriate authority of

1 every State, Territory, Commonwealth, or Possession of the
2 United States, or of the District of Columbia, in which an
3 attorney-at-law is licensed to practice law, shall be notified
4 (1) by the Committee of any public reprimand issued by the
5 Committee against such attorney, (2) by the agency of
6 any order of suspension entered by the agency against such
7 attorney, and (3) by the United States district court of
8 any reprimand, suspension, or disbarment entered by the
9 court against such attorney in any proceeding instituted by
10 the Committee.

11 "REPRESENTATION BY PERSONS OTHER THAN ATTORNEYS-
12 AT-LAW

13 "SEC. 604. (a) PERSONS ENTITLED.—Individuals other
14 than attorneys-at-law may be authorized by any agency to
15 appear for or represent a public or private person, party,
16 or organization before it, so long as and to the extent that
17 such agency (1) shall find such representation appropriate
18 and desirable in the public interest, as well as in the interest
19 to the parties to agency proceedings, (2) is not otherwise
20 precluded by law from so doing, and (3) provides by general
21 rules for such representation. The agency may make such
22 investigation or examination as it deems necessary to deter-
23 mine that the applicant possesses necessary competence and
24 understanding of ethical responsibilities and is of good moral
25 character and repute. Nothing contained in this Code shall

1 be construed as authorizing persons not members of the bar
2 to practice law or to hold themselves out, impliedly or ex-
3 pressly, as authorized so to do.

4 “(b) DISCIPLINE.—Any agency before which a person
5 other than an attorney-at-law appears for or represents any
6 public or private person, party, or organization shall
7 have authority to revoke or suspend the privilege of repre-
8 sentation by such person before the agency for violation of
9 the general standards of conduct set forth in section 601 of
10 this Code, of subsection (a) hereof, or of such other stand-
11 ards of conduct as the agency may in the public interest
12 prescribe by rule.

13 “(c) JUDICIAL REVIEW.—An order revoking or sus-
14 pending the privilege of representation extended to any such
15 person by rule of the agency shall be reviewable by the
16 United States District Court for the District of Columbia in
17 a subsequent trial of the facts and the law de novo.

18 “TITLE VII—GENERAL PROVISIONS

19 “CONSTRUCTION AND EFFECT

20 “SEC. 700. Nothing in this Code shall be held to dimin-
21 ish the constitutional rights of any person or to limit or
22 repeal any additional requirements imposed by statute or
23 otherwise recognized by law. Except as otherwise recog-
24 nized by law, all requirements or privileges relating to evi-
25 dence or procedure shall apply equally to agencies and per-

1 sons. Every agency shall have all the powers necessary to
2 enable it to carry out the provisions of this Code, including
3 the authority to make and enforce rules thereunder. The
4 affirmative requirements and specific prohibitions of this
5 Code shall be broadly construed, and exemptions from, and
6 exceptions to, this Code shall be narrowly construed.

7 "PENALTIES

8 "SEC. 701. (a) FORFEITURES.—A claim against the
9 United States before any agency thereof shall be forfeited
10 to the United States by any person who corruptly practices
11 or attempts to practice any fraud against the United States
12 in the proof, statement, establishment, or allowance of such
13 claim. In such cases, the agency shall specifically find such
14 fraud or attempt and incorporate an order of forfeiture in its
15 decision.

16 "(b) CRIMINAL PENALTIES.—The provisions of sec-
17 tions 287, 1001, 1621, and 1622, title 18, United States
18 Code, shall be applicable in agency proceedings instituted
19 in accordance with the provisions of this Code.

20 "SEPARABILITY

21 "SEC. 702. If any provision of this Code or the applica-
22 tion thereof to any person or circumstance is held invalid,
23 the remainder of this Code and the application of such pro-
24 vision to other persons or circumstances shall not be affected

25 thereby

1 "EFFECTIVE DATE

2 "SEC. 703. This Code shall take effect on the one hun-
3 dred and eightieth day after the date of its enactment. No
4 procedural requirement herein provided for shall be manda-
5 tory as to any agency proceeding initiated prior to the
6 effective date of such requirement."

7 REPEAL OF EXEMPTIONS FROM ADMINISTRATIVE
8 PROCEDURE ACT

9 SEC. 2. All laws or parts of laws in force on the 180th
10 day after the date of enactment of this Act which grant
11 exemption from the provisions of the Administrative Pro-
12 cedure Act are hereby repealed, including specifically the
13 following parts of laws:

14 (1) Section 213 of the Federal Coal Mine Safety
15 Act (66 Stat. 709) (U. S. C., title 30, sec. 483) ;

16 (2) Section 7 of the Export Control Act of 1949
17 63 Stat. 9) (U. S. C., title 50 appendix, sec. 2027) ;

18 (3) Section 16 of the Rubber Act of 1948 (62
19 Stat. 108) (U. S. C., title 50 appendix, sec. 1935) ;

20 (4) Section 5 of the Second Decontrol Act of 1947
21 61 Stat. 323) ;

22 (5) Section 501 (b) of Public Law 155, Eighty-
23 second Congress, first session (65 Stat. 364) ;

24 (6) Section 111 of the Renegotiation Act of 1951
25 (65 Stat. 22) (U. S. C., title 50 appendix, sec. 1221) ;

1 (7) Section 3 (i) of the International Wheat
2 Agreement Act of 1949 (63 Stat. 947) (U. S. C.,
3 title 7, sec. 1642 (i)) ;

4 (8) Section 709 of the Defense Production Act of
5 1950 (64 Stat. 819) (U. S. C., title 50 appendix, sec.
6 2159) ;

7 (9) Section 3 of Public Law 564, Eighty-second
8 Congress, second session (66 Stat. 732) ; and

9 (10) Section 13 (b) of the Universal Military
10 Training and Service Act (62 Stat. 623) (U. S. C.,
11 title 50 appendix, sec. 463) .

12 AMENDMENTS TO JUDICIAL CODE

13 SEC. 3 (a) The definition of "Court of the United
14 States" in section 451 of title 28 of the United States Code
15 is amended to read as follows:

16 "The term 'court of the United States' includes the
17 Supreme Court of the United States, courts of appeals, dis-
18 trict courts constituted by chapter 5 of this title, including
19 the district courts of the United States for the districts of
20 Hawaii and Puerto Rico, the Administrative Court of the
21 United States, the Court of Claims, the Court of Customs
22 and Patent Appeals, the Customs Court, and any court
23 created by Act of Congress the judges of which are entitled
24 to hold office during good behavior."

1 (b) Section 610 of title 28 of the United States Code
2 is amended to read as follows:

3 "As used in this chapter the word 'courts' includes the
4 courts of appeals and district courts of the United States, the
5 District Court for the Territory of Alaska, the United States
6 District Court for the District of the Canal Zone, the District
7 Court of the Virgin Islands, the Administrative Court of the
8 United States, the Court of Claims, the Court of Customs
9 and Patent Appeals, and the Customs Court."

10 TRANSFERS OF JURISDICTION TO ADMINISTRATIVE COURT

11 SEC. 4. (a) CLAYTON ACT.—Section 11 of the Clayton
12 Act (38 Stat. 734), as amended (U. S. C., title 15, sec. 21),
13 is amended to read as follows:

14 "SEC. 11. Authority to file petitions in the Administra-
15 tive Court of the United States to enforce compliance with
16 sections 2, 3, 7, and 8 of this Act by the persons respectively
17 subject thereto is hereby vested (1) in the Interstate Com-
18 merce Commission, where applicable to common carriers sub-
19 ject to the Interstate Commerce Act, as amended, (2) in the
20 Federal Communications Commission, where applicable to
21 common carriers engaged in wire or radio communication or
22 radio transmission of energy, (3) in the Civil Aeronautics
23 Board, where applicable to air carriers and foreign air car-
24 riers subject to the Civil Aeronautics Act of 1938, (4) in the

1 Federal Reserve Board, where applicable to banks, banking
2 associations, and trust companies, and (5) in the Federal
3 Trade Commission, where applicable to all other character
4 of commerce. Such authority shall be exercised as follows:

5 “Whenever the Commission or Board vested with juris-
6 diction thereof as above provided shall have reason to believe
7 that any person is violating or has violated any of the pro-
8 visions of sections 2, 3, 7, and 8 of this Act, it shall file a peti-
9 tion stating its charges in that respect in the Administrative
10 Court of the United States, which shall have exclusive juris-
11 diction of the proceedings and the power to grant such tem-
12 porary relief or restraining order as it deems just and proper.
13 The jurisdiction of the Administrative Court shall be exclu-
14 sive, and its judgment and decree shall be final, except that
15 the same shall be subject to review under section 411 of the
16 Administrative Code.”

17 (b) FEDERAL TRADE COMMISSION ACT.—Section 5 of
18 the Federal Trade Commission Act (38 Stat. 719), as
19 amended (U. S. C., title 15, sec. 45), is amended by striking
20 out subsections (b) through (1) and by substituting in lieu
21 thereof the following subsection:

22 “(b) Whenever the Commission shall have reason to
23 believe that any such person, partnership, or corporation has
24 been or is using any unfair method of competition or unfair
25 or deceptive act or practice in commerce, it shall file a peti-

1 tion stating its charges in that respect in the Administrative
2 Court of the United States, which shall have exclusive juris-
3 diction of the proceedings and the power to grant such
4 temporary relief or restraining order as it deems just and
5 proper. The jurisdiction of the Administrative Court shall
6 be exclusive, and its judgment and decree shall be final, ex-
7 cept that the same shall be subject to review under section
8 411 of the Administrative Code.”

9 (c) CIVIL AERONAUTICS ACT.—Section 411 of the
10 Civil Aeronautics Act (52 Stat. 1003), as amended
11 (U. S. C., title 49, sec. 491), is amended to read as follows:

12 “SEC. 411. If the Board shall have reason to believe
13 that any air carrier, foreign air carrier, or ticket agent has
14 been or is engaged in unfair or deceptive practices or un-
15 fair methods of competition in air transportation, or in the
16 sale of air transportation, it shall file a petition stating its
17 charges in that respect in the Administrative Court of the
18 United States, which shall have exclusive jurisdiction of the
19 proceedings and the power to grant such temporary relief
20 or restraining order as it deems just and proper. The juris-
21 diction of the Administrative Court shall be exclusive, and
22 its judgment and decree shall be final, except that the same
23 shall be subject to review under section 411 of the Admin-
24 istrative Code.”

25 (d) TARIFF ACT OF 1930.—Section 337 (c) of the

1 Tariff Act of 1930 (46 Stat. 703) (U. S. C., title 19, sec.
2 1337 (c)) is amended to read as follows:

3 “(c) HEARINGS AND REVIEW.—The Commission shall
4 make such investigation under and in accordance with such
5 rules as it may promulgate and give such notice and afford
6 such hearing, and when deemed proper by the Commission
7 such rehearing, with opportunity to offer evidence, oral or
8 written, as it may deem sufficient for a full presentation of
9 the facts involved in such investigation. The testimony in
10 every such investigation shall be reduced to writing, and a
11 transcript thereof with the findings and recommendations of
12 the Commission shall be the official record of the proceedings
13 and findings in the case, and in any case where the findings
14 in such investigation show a violation of this section, a copy
15 of the findings shall be promptly mailed or delivered to the
16 importer or consignee of such articles. Such findings, if
17 supported by evidence, shall be conclusive, except that a
18 rehearing may be granted by the Commission and except
19 that within such time after said findings are made and in
20 such manner as appeals may be taken from decisions of the
21 United States Customs Court, an appeal may be taken
22 from said findings upon a question or questions of law only
23 to the Administrative Court of the United States by the
24 importer or consignee of such articles. It it shall be shown
25 to the satisfaction of said Court that further evidence should

1 be taken and that there were reasonable grounds for the
2 failure to adduce such evidence in the proceedings before
3 the Commission, said Court may order such additional evi-
4 dence to be taken before the Commission in such manner
5 and upon such terms and conditions as to the Court may seem
6 proper. The Commission may modify its findings as to the
7 facts or make new findings by reason of additional evidence,
8 which, if supported by evidence, shall be conclusive as to
9 the facts except that within such time and in such manner
10 an appeal may be taken as aforesaid upon a question or
11 questions of law only. The judgment and decree of the
12 Administrative Court shall be final, except that the same
13 shall be subject to review under section 411 of the Adminis-
14 trative Code.”

15 (c) FEDERAL POWER ACT.—Section 314 of the Fed-
16 eral Power Act (41 Stat. 1063), as amended (U. S. C.,
17 title 16, sec. 825m (a)), is amended as follows:

18 (1) By striking out the word “Whenever” in the first
19 sentence of subsection (a) thereof and inserting in lieu
20 thereof the words “Except as hereinafter provided, when-
21 ever”; and

22 (2) By adding at the end thereof a new subsection to
23 read as follows:

24 “(d) Whenever the Commission shall have reason to
25 believe that any licensee under this Act has entered into

1 any combination, agreement, arrangement, or understand-
2 ing, express or implied, to limit the output of electrical
3 energy, to restrain trade, or to fix, maintain, or increase
4 prices for electrical energy or service, it shall file a petition
5 stating its charges in that respect in the Administrative
6 Court of the United States which shall have exclusive juris-
7 diction of the proceedings and the power to grant such
8 temporary relief or restraining order as it deems just and
9 proper. The jurisdiction of the Administrative Court shall
10 be exclusive in such cases, and its judgment and decree shall
11 be final, except that the same shall be subject to review under
12 section 411 of the Administrative Code.”

13 (f) COMMUNICATIONS ACT OF 1934.—Section 312
14 (b) of the Communications Act (48 Stat. 1086), as
15 amended (U. S. C., title 47, sec. 312 (b)), is amended to
16 read as follows:

17 “(b) Where any person (1) has failed to operate sub-
18 stantially as set forth in a license, or (2) has violated or
19 failed to observe any of the provisions of this Act, or (3)
20 has violated or failed to observe any rule or regulation of the
21 Commission authorized by this Act or by a treaty ratified
22 by the United States, the Commission may order such person
23 to cease and desist from such action; except that, whenever
24 the Commission shall have reason to believe that any person
25 is violating or has violated any provision of section 314 of

1 this Act, it shall file a petition stating its charges in that
2 respect in the Administrative Court of the United States,
3 which shall have exclusive jurisdiction of the proceedings
4 and the power to grant such temporary relief or restraining
5 order as it deems just and proper. The jurisdiction of the
6 Administrative Court shall be exclusive in such cases, and
7 its judgment and decree shall be final except that the same
8 shall be subject to review under section 411 of the Adminis-
9 trative Code.”

10 (g) ACT OF JUNE 25, 1934.—Section 2 of the Act of
11 June 25, 1934 (48 Stat. 1214), as amended (U. S. C.,
12 title 15, sec. 522), is amended to read as follows:

13 “SEC. 2. If the Secretary of the Interior shall have rea-
14 son to believe that any such association monopolizes or re-
15 strains trade in interstate or foreign commerce to such an
16 extent that the price of any aquatic product is unduly en-
17 hanced by reason thereof, he shall file a petition stating the
18 charges in that respect in the Administrative Court of the
19 United States, which shall have exclusive jurisdiction of the
20 proceedings and shall have power to grant such temporary
21 relief or restraining order as it deems just and proper, and
22 to issue a decree enforcing its findings.

23 “After the petition is so filed in the Administrative
24 Court, the Court may issue a temporary writ of injunction
25 directing such association to cease and desist from monopoliz-

1 zation or restraint of trade. Service of the petition and of
2 all notices may be made upon such association by service
3 upon any officer or agent thereof, engaged in carrying on
4 its business, or on any attorney authorized to appear in such
5 proceeding for such association and such service shall be
6 binding upon such association, the officers and members
7 thereof. The judgment and decree of the Administrative
8 Court shall be final, except that the same shall be subject to
9 review under section 411 of the Administrative Code.”

10 (h) PACKERS AND STOCKYARDS ACT.—(1) Section
11 203 of the Packers and Stockyards Act (42 Stat. 111), as
12 amended (U. S. C., title 7, sec. 193), is amended to read
13 as follows:

14 “SEC. 203. (a) Whenever the Secretary has reason to
15 believe that any packer has violated or is violating any pro-
16 vision of this title, he shall file a petition stating his charges
17 in that respect in the Administrative Court of the United
18 States, which shall have exclusive jurisdiction of the pro-
19 ceedings and the power to grant such temporary relief or
20 restraining order as it deems just and proper. The jurisdic-
21 tion of the Administrative Court shall be exclusive, and its
22 judgment and decree shall be final, except that the same
23 shall be subject to review under section 411 of the Adminis-
24 trative Code.”

25 (2) Section 205 of the Packers and Stockyards Act

1 (42 Stat. 163), as amended (U. S. C., title 7, sec. 195),
2 is amended to read as follows:

3 "SEC. 205. Any packer, or any officer, director, agent,
4 or employee of a packer, who fails to obey any order of the
5 Administrative Court of the United States issued under the
6 provisions of section 203, or such order as modified—

7 "(1) after the expiration of the time allowed for
8 filing a petition in the court of appeals to set aside or
9 modify such order, if no such petition has been filed
10 within such time; or

11 "(2) after the expiration of the time allowed for
12 applying for review, if such order, or such order as
13 modified, has been sustained by the court of appeals and
14 no such review has been applied for within such time; or

15 "(3) after such order, or such order as modified,
16 has been sustained by the courts as provided in section
17 204;

18 shall on conviction be fined not less than \$500 nor more
19 than \$10,000, or imprisoned for not less than six months
20 nor more than five years, or both. Each day during which
21 such failure continues shall be deemed a separate offense."

22 (i) ACT OF FEBRUARY 18, 1922.—Section 2 of the Act
23 of February 18, 1922 (42 Stat. 388) (U. S. C., title 7, sec.
24 292), is amended to read as follows:

25 "SEC. 2. If the Secretary of Agriculture shall have

1 reason to believe that any such association monopolizes or
2 restrains trade in interstate or foreign commerce to such an
3 extent that the price of any agricultural product is unduly en-
4 hanced by reason thereof, he shall file a petition stating the
5 charges in that respect in the Administrative Court of the
6 United States, which shall have exclusive jurisdiction of the
7 proceedings and shall have power to grant such temporary
8 relief or restraining order as it deems just and proper, and
9 to issue a decree enforcing its findings. After the petition
10 is so filed in the Administrative Court, the Court may issue
11 a temporary writ of injunction directing such association to
12 cease and desist from monopolization or restraint of trade.
13 Service of the petition and of all notices may be made upon
14 such association by service upon any officer or agent thereof
15 engaged in carrying on its business, or on any attorney au-
16 thorized to appear in such proceeding for such association,
17 and such service shall be binding upon such association, the
18 officers, and members thereof. The judgment and decree of
19 the Administrative Court shall be final in any such case,
20 except that the same shall be subject to review under section
21 411 of the Administrative Code.”

22 (j) INTERNAL REVENUE CODE OF 1954.—Section 7441
23 of the Internal Revenue Code of 1954 is amended to read as
24 follows:

25 “The Tax Court of the United States shall be known as

1 the Tax Section, Administrative Court of the United States,
2 and the members thereof shall be known as judges of the
3 Administrative Court of the United States.”

4 (k) IMMIGRATION AND NATIONALITY ACT OF 1952.—

5 The Immigration and Nationality Act (66 Stat. 166), as
6 amended (U. S. C., title 8, sec. 1101), is amended as
7 follows:

8 “(1) In section 235, subsection (c), add a comma and
9 the following before the period at the end of the second
10 sentence thereof: ‘or without any proceeding in the Admin-
11 istrative Court of the United States, Immigration Section.’

12 “(2) Subsections (a) and (b) of section 236 are
13 amended to read as follows:

14 ““(a) A special inquiry officer shall conduct proceed-
15 ings under this section, with or without hearing as the At-
16 torney General may direct, to determine administratively
17 whether an arriving alien who has been detained for further
18 inquiry under section 235 of this Act shall be excluded and
19 deported. At the conclusion of the proceeding before the
20 special inquiry officer in any such case, an order shall be
21 issued either to admit, or to exclude and deport, the alien.
22 If the order is adverse to the alien, he shall be advised at
23 that time of his right to initiate a proceeding in the Admin-
24 istrative Court of the United States, Immigration Section,
25 for a determination de novo of the order of exclusion, and

1 that in such proceeding he shall be entitled to benefit of
2 counsel.

3 “(b) Within such time as the Administrative Court of
4 the United States, Immigration Section, shall provide by
5 rule, the alien or the immigration officer in charge at the
6 port where the inquiry is held may institute proceedings in
7 the Administrative Court of the United States, Immigration
8 Section, to review the order of the special inquiry officer by
9 trial de novo, and in all such proceedings the jurisdiction of
10 such Court shall be exclusive. Such proceedings shall be
11 initiated by the filing of a petition with the Administrative
12 Court of the United States, Immigration Section, stating in
13 plain and simple language the relief sought and the grounds
14 therefor, and a copy of the petition shall be furnished
15 promptly by the Court to the Immigration and Naturaliza-
16 tion Service. In the absence of the timely filing of any
17 such petition, the order of the special inquiry officer shall be
18 final. The case shall be promptly tried by a judge or com-
19 missioner of the Administrative Court of the United States,
20 Immigration Section. The judgment and decree of the
21 Administrative Court of the United States, Immigration
22 Section, shall be final, except that the same shall be subject
23 to review under section 411 of the Administrative Code.’

24 “(3) Subsection (c) of section 236 is hereby repealed.

25 “(4) The last sentence of subsection (d) of section

75

1 236 is amended to read as follows: 'If an alien is excluded
2 by a special inquiry officer because of the existence of a
3 physical disease, defect, or disability, other than tuberculosis
4 in any form, leprosy, or any dangerous contagious disease,
5 the alien shall be entitled to a review in the Administrative
6 Court of the United States as provided in subsection (b) of
7 this section.'

8 “(5) Subsection (a) of section 242 is amended by
9 striking out the final sentence thereof.

10 “(6) Subsection (b) of section 242 is amended to read
11 as follows:

12 “(b) (1) A special inquiry officer shall conduct pro-
13 ceedings under this section, with or without hearing as the
14 Attorney General may direct, to determine administratively
15 whether any alien shall be deported. At the conclusion of
16 the proceeding before the special inquiry officer in any such
17 case, an order shall be issued either to permit the alien to
18 remain in the United States, or to deport the alien. If the
19 order is adverse to the alien, he shall be advised at that
20 time of his right to initiate a proceeding in the Administra-
21 tive Court of the United States, Immigration Section, for a
22 determination de novo of the order of deportation, and that
23 in such proceeding he shall be entitled to benefit of counsel.
24 In the discretion of the Attorney General, and under such
25 regulations as he may prescribe, deportation proceedings.

1 including issuance of a warrant of arrest, and a finding of
2 deportability under this section need not be required in
3 the case of any alien who admits to belonging to a class of
4 aliens who are deportable under section 241 of this Act if
5 such alien voluntarily departs from the United States at his
6 own expense, or is removed at Government expense as here-
7 inafter authorized, unless the Attorney General has reason
8 to believe that such alien is deportable under paragraphs
9 (4)-(7), (11), (12), (14)-(17), or (18) of section
10 241 (a) of this Act. If any alien who is authorized to depart
11 voluntarily under the preceding sentence is financially unable
12 to depart at his own expense and the Attorney General
13 deems his removal to be in the best interest of the United
14 States, the expense of such removal may be paid from the
15 appropriation for the enforcement of this chapter.

16 ““(2) Within such time as the Administrative Court
17 of the United States, Immigration Section, shall provide by
18 rule, the alien or the immigration officer who initiated the
19 deportation proceedings may institute proceedings in the
20 Administrative Court of the United States, Immigration
21 Section, to review the order of the special inquiry officer by
22 trial de novo, and in all such proceedings the jurisdiction
23 of such Court shall be exclusive. Such proceedings shall be
24 initiated by the filing of a petition in the Administrative
25 Court of the United States, Immigration Section, stating

1 in plain and simple language the relief sought and the
2 grounds therefor, and a copy of the petition shall be fur-
3 nished promptly by the Court to the Immigration and
4 Naturalization Service. In the absence of the timely filing
5 of any such petition, the order of the special inquiry officer
6 shall be final. The case shall be promptly tried by a
7 judge or commissioner of the Administrative Court of the
8 United States, Immigration Section. The judgment and
9 decree of the Administrative Court of the United States,
10 Immigration Section, shall be final, except that the same
11 shall be subject to review under section 411 of the Adminis-
12 trative Code.

13 “ ‘(3) The Administrative Court of the United States,
14 Immigration Section, shall have authority to review or re-
15 vise any determination of the Attorney General concerning
16 detention, release on bond, or parole pending a final decision
17 of deportability under this section.’

18 “ (7) Subsection (c) of section 242 is amended by strik-
19 ing out the second sentence thereof.

20 “ (8) Subsection (f) of section 242 is amended to read
21 as follows:

22 “ ‘(f) Should the Attorney General find that such alien
23 has unlawfully entered the United States within five years
24 after having previously departed voluntarily in accordance
25 with the procedures under this Act or been deported pur-

1 suant to an order of deportation, whether before or after
2 June 27, 1952, on any ground described in any of the para-
3 graphs enumerated in subsection (e) of this section, the
4 previous order of deportation shall be deemed to be rein-
5 stated from its original date, and such alien shall be deported
6 under such previous order at any time subsequent to such
7 reentry. For the purposes of subsection (e) of this section,
8 the date on which the finding is made that such reinstate-
9 ment is appropriate shall be deemed the date of the final order
10 of deportation.'

11 “(9) Such Act is further amended by inserting after
12 section 280 thereof the following new section:

13 “SEC. 280a. The Administrative Court of the United
14 States, Immigration Section, shall have exclusive jurisdic-
15 tion to determine by trial de novo all proceedings brought
16 for the voiding, remission, or mitigation of any fines, penal-
17 ties, sums, costs, or expenses imposed administratively under
18 any of the provisions of this chapter. Within such time as
19 the Administrative Court of the United States, Immigration
20 Section, shall provide by rule, such proceedings shall be
21 initiated by the filing of a petition with it stating in plain and
22 simple language the relief sought and the grounds therefor
23 and a copy of the petition shall be furnished promptly by
24 the Court to the Immigration and Naturalization Service.
25 The case shall be promptly tried by a judge or commissioner

1 of the Administrative Court of the United States, Immigra-
2 tion Section. The judgment and decree of the Administra-
3 tive Court of the United States, Immigration Section, shall
4 be final, except that the same shall be subject to review under
5 section 411 of the Administrative Code.' ”

6 (1) DEFINITION.—Wherever the term “Administrative
7 Court of the United States” is used in any section of an
8 Act of Congress which is amended by this section, it means
9 the Administrative Court of the United States created by
10 Title III of the Administrative Code.

11 TRANSFERS OF JURISDICTION TO OTHER COURTS

12 SEC. 5. (a) INTERSTATE COMMERCE ACT.—Notwith-
13 standing any other provision of law, on and after the effective
14 date of the Administrative Code, any party believing him-
15 self entitled to an award of damages against a carrier under
16 the provisions of Part I of the Interstate Commerce Act,
17 as amended, for a violation thereof, may file in the district
18 court of the United States for the district in which he resides
19 or in which is located the principal operating office of the
20 carrier, or through which the road of the carrier runs, or in
21 any State court of general jurisdiction having jurisdiction of
22 the parties, a complaint setting forth briefly the causes for
23 which he claims damages. Any such suit in the district court
24 of the United States shall proceed in all respects like other
25 civil suits for damages. After such effective date, no pro-

1 ceeding shall be instituted under section 16 of such Act, as
2 amended, for an award of damages, and the remedy herein
3 provided for shall be the exclusive remedy in any such case.

4 (b) PACKERS AND STOCKYARDS ACT.—(1) Subsection
5 (e) of section 309 of the Packers and Stockyards Act (42
6 Stat. 165), as amended (U. S. C., title 7, sec. 210 (e)),
7 is amended to read as follows:

8 “(e) All actions for damages, in the form of reparations
9 or otherwise, shall be filed, heard, and determined in the
10 district court of the United States for the district in which
11 the plaintiff resides or in which is located the principal place
12 of business of the defendant, or in any State court having
13 general jurisdiction of the parties.”

14 (2) Subsection (f) of such section 309, as amended, is
15 hereby repealed.

16 APPLICATION OF PERJURY STATUTE TO AGENCIES

17 SEC. 6. Section 1621 of title 18 of the United States
18 Code (relating to perjury) is amended by inserting “agency
19 (as defined in the Administrative Code),” after “tribunal,”
20 and before “officer”.

84TH CONGRESS
1st Session

H. R. 6114

A BILL

To improve legal procedures in the Executive Branch of the Government through the enactment of an Administrative Code, and for other purposes.

By Mr. THOMPSON of New Jersey

MAY 9, 1955

Referred to the Committee on the Judiciary